

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF HAWAII

In re)	CASE NO. 10-02178
)	(Chapter 13)
ALMA BARBASO SCHWARTZ,)	
)	DATE: November 10, 2010
Debtor.)	TIME: 1:30 p.m.
)	JUDGE: The Honorable Lloyd King
)	
)	Related Docket No. 25
)	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This case came on for hearing before the undersigned on November 10, 2010 at 1:30 p.m. on Secured Creditor Citizens Bank of Pennsylvania's ("Citizens") Motion for Relief from the Automatic and Co-Debtor Stay. Miranda Tsai, Esq. appeared on behalf of Citizens. Debtor Alma Barbaso Schwartz appeared *pro se* ("Debtor").

After consideration of the written and oral arguments of the parties, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Debtor and Co-borrower Stephen Schwartz, individually and in his capacity as Trustee of the MGM Genesis Trust U/D/T dated September 1, 1998

(“Co-borrower”) entered into a Citizens Bank Promissory Note and Disclosure Statement (“Note”) with Citizens.

2. The Note is secured by a Pennsylvania Closed-End Mortgage that is recorded at the Lancaster County, Recorder of Deeds Office as Document No. 5355446 (“Mortgage”) and encumbers real property located at 836 Westminster Drive, Lancaster, PA 17601, also identified as Tax ID 290-28744-0-0000 (“Secured Property”).

3. Under the terms of the Note, the monthly payment of \$2,703.27 is due on the twenty-sixth day of each month beginning May 26, 2004 for 180 months.

4. As of August 30, 2010, Debtor and Co-borrower are delinquent in monthly payments, \$240.00 in late charges, and \$60 in fees, in the total amount of \$32,439.24.

5. Citizens is the holder of the Note and Mortgage.

6. There is no evidence that Citizens transferred the Note and Mortgage.

7. Debtor’s proposed Chapter 13 plan filed on August 18, 2010, does not provide for payment of Citizens’ claim.

CONCLUSIONS OF LAW

1. This Court has jurisdiction over all the parties in this action and all the claims presented therein.

2. Citizens is without adequate protection of its interest in the Secured Property.

3. Debtor has offered nothing in the way of adequate protection to Citizens.

4. Citizens is entitled to relief from stay as to Debtor and Co-borrower.

An order will be entered, granting relief from the automatic stay.

 **/s/ Lloyd King**
United States Bankruptcy Judge
Dated: 11/17/2010

In re ALMA BARBASO SCHWARTZ; Case No. 10-02178 (Chapter 13); U.S. Bankruptcy Court, D. Haw., Findings of Fact, Conclusion of Law